

Kentucky Department of Insurance
Financial Impact Statement

- I. Mandating health insurance coverage of BR1744/HB457, will increase premiums, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The proposed bill mandates the following:
- a. Prohibits an insurer/PBM/Administrator from requiring an Insured to use mail-order pharmacy in order to receive coverage.
 - b. Prohibits an insurer/PBM/Administrator from imposing a cost-sharing requirement or fee for pharmacy services received from a retail pharmacy/pharmacist that is greater than what would be required if a mail-order pharmacy was used if the retail pharmacy/pharmacist has agreed to accept reimbursement at no more than the amount that would have been reimbursed to the mail-order pharmacy.
 - c. Prohibits an insurer/PBM/Administrator from imposing a cost-sharing requirement or fee for pharmacy services that are not equally imposed on all insureds in the same benefit category, class, or cost-sharing level.
 - d. Requires all Insurers/PBMs that utilize a pharmacy network to ensure that the network is reasonably adequate and accessible for the provisions of pharmacy services, subject to commissioner review. This includes an adequate number of accessible pharmacies that are not mail-order pharmacies and that convenient pharmacies shall be at most 30 minutes or 30 miles from each enrollee's residence.
 - e. Requires reimbursement to a pharmacy/pharmacist for a prescription drug or other service at a net amount that is equal to or greater than:
 - i. the national average drug acquisition cost at the time the drug or service is administered, dispensed, or provided, or the wholesale acquisition cost if the national average drug acquisition cost is not available.
 - f. Prohibits designating a prescription drug as a "specialty drug" unless the drug is a limited distribution drug that requires special handling and is not commonly carried at retail pharmacies or oncology clinics/practices.
 - g. Prohibits an PBM from discriminating against a pharmacy/pharmacist that is located within a geographic coverage area of the health plan and is willing to meet reasonable terms and conditions for network participation
 - h. Prohibits requiring or incentivizing insured to use pharmacy affiliates, including prohibiting charging less cost sharing for the use of a pharmacy affiliate than for nonaffiliated pharmacies.
 - i. Prohibits not providing equal access and incentives to all pharmacies within the PBM network, including the insured's right to choose the insured's network pharmacy of choice.
 - j. Requires the use of pass-through pricing, which –
 - i. Limits payment by an insurer to its administrator or PBM to: The ingredient cost, dispensing fee, any other amounts paid contractually by the PBM to pharmacies or pharmacists, and the administrative fee.
 - ii. Requires the PBM to pass through to the insurer the portion of any income, payments, and financial benefits¹ received related to prescription drugs or any PBM services provided under its contract. An Insurer may direct the PBM to pass on any portion of the income, payments, and financial benefits to its

¹ Includes any rebates, inflationary payments, credits, clawbacks, fees, grants, chargebacks, or reimbursements received from a manufacturer, PBM or administrator.

- insureds.
- iii. Requires the PBM to fully disclose to the insurer: all ingredient costs, dispensing fees, other contractual payments made by the PBM to any pharmacy or pharmacist, sources, amounts, and payees of all income, payments, and financial benefits received, and its payment model for charging administrative fees.

Our estimated increase in premiums for health benefit plans, excluding Medicaid and state employees, is approximately \$0.00 to \$6.73 per member per month (PMPM). This represents an increase of approximately 0.0% to 1.1% or approximately \$0 to \$32 million for all fully insured policies in Kentucky, not including Medicaid and state employees, due to the increased costs for health plans.

The proposed BR1744/HB457, as described above, will increase the total cost of health care in the Commonwealth, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. Our estimated increase in the total cost of health care in the Commonwealth for health benefit plans, is approximately \$0.00 to \$6.73 per member per month (PMPM). This represents an increase of approximately 0.0% to 1.1% or approximately \$0 to \$32 million for all fully insured policies in Kentucky, not including Medicaid and state employees, due to the increased costs for health plans.

The proposed BR1744/HB457, as described above, is not expected to materially increase administrative expenses of insurers, based upon our analysis of the proposed mandate and our experience with similar health insurance benefits. The proposed legislation for all insured health benefit plan coverages, excluding Medicaid and state employees, is not expected to materially increase administrative expenses of Insurers. It is our assumption that Insurers will have this information readily available, and the additional administrative requirements imposed by this mandate would not significantly impact the administrative costs relative to current levels.

Our analysis included use of data and statistics from the National Community Pharmacists Association (NCPA), the National Center for Policy Analysis, the Lewin Group, the Connecticut and Pennsylvania General Assemblies, the Pharmaceutical Care Management Association, the National Library of Medicine Health Services Research, the National Center for Biotechnology Information, L&E's experience with PBM audits for other states, L&E's prescription drug pricing model, actuarial judgement, and a 2020 Insurer annual data report provided to us by the Kentucky Department of Insurance (KY DOI).

Note: Unfortunately, there is a lack of available and reliable data regarding PBM contracts and the pharmaceutical financial benefits PBMs and/or Insurers ultimately receive. Therefore, our fiscal impact range was estimated to the best of our ability considering our lack of access to such data and information.

Note: We do acknowledge the potential for cost savings due to the additional transparency in PBM contracting that would result due to the prohibition of spread pricing models; however, it is unclear if those cost savings would remain indefinitely. It is our understanding that PBM's would have other methods of generating revenue when moving to a pass-through pricing model, one example being an increase in administration fees.

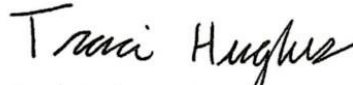
Disclosure: L&E made several assumptions in performing the analysis. Several of these assumptions are subject to material uncertainty and it is not unexpected that actual results could materially differ from these estimates if a more in-depth analysis were to be performed. Examples of uncertainty inherent in the

assumptions include, but are not limited to, 1) data limitations, 2) the potential changes in available health benefit plan options and 3) the impact this bill may have on pharmacy fee arrangements.

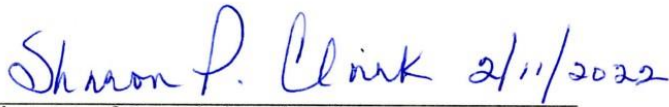
Disclosure: Due to the material disclosure requirements required therein, we must acknowledge that the content of this report may not comply with Actuarial Standard of Practice No. 41 Actuarial Communications.



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February 11, 2022



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February 11, 2022



(Signature of Commissioner/Date)

FIS Actuarial Form 6-03

Kentucky Department of Insurance
Financial Impact Statement
Addendum

A fiscal impact statement (FIS) regarding the potential impact of health insurance coverage mandates in BR1744/HB457 was issued on February 11, 2022. This document serves as an addendum to that FIS.

We have been asked to clarify the estimated cost differences between the BR1744/HB457 FIS for and the BR42/HB398 FIS issued on March 5, 2020.

The language in BR1744/HB457 and BR42/HB398 are substantially similar. Any language differences between the current and prior bills are not the cause of the increased fiscal impact range.

In the BR42/HB398 FIS, we stated that our estimated cost range included an estimated impact for the retail/mail-order cost sharing mandate and any willing pharmacy provisions. We also stated that the impact for the remaining mandates were indeterminant due to lack of available PBM contract data.

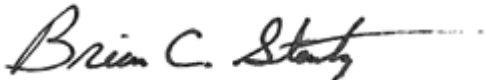
In the approximate two years since the BR42/HB398 FIS we have observed new data and information regarding specialty drugs and the potential range of PBM discounts compared to the implied discount within the National Average Drug Acquisition Costs (NADAC).

In our professional judgement, this additional information suggests that costs in the “worst case” scenario could be greater than what was included as the “worst case” scenario within the BR42/HB398 FIS. This difference in the upper ranges is not intended to imply that a greater cost impact was more likely under BR1744/HB457 compared to the prior bill.

It should also be noted that the lower end of the potential cost ranges are 0% for both bills.

In summary, we do not expect the likely costs resulting from BR1744/HB457 to be materially different from the prior version of the bill; however, the costs *may* ultimately be different.

Disclosure: Due to the material disclosure requirements required therein, we must acknowledge that the content of this report may not comply with Actuarial Standard of Practice No. 41 Actuarial Communications.



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February 18, 2022



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